

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-1193-1997 (O&M)

Date of decision: August 24, 2022

Mangat Ram

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Mandeep Sindhu, Advocate for
Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, inter alia, is for issuance of a writ in the nature of Mandamus directing respondents to consider the case of the petitioner for granting him seniority w.e.f. the date of his initial appointment i.e. 01.06.1974 in the Consolidation Department as a regular employee, along with consequential benefits. Further a writ has been sought to quash the order dated 31.08.1992 (Annexure P-2) passed by the Deputy Commissioner, whereby claim of the petitioner for seniority has been rejected.

2. Petition was admitted for hearing on 31.01.2002.

3. From a perusal of record/pleadings, it appears that on merits, claim of the petitioner is not admissible. Reference may be had in particular to the stand taken in Para-2 written statement filed on behalf of respondent No.3 and the same reads as under:-

“2. That in reply to para No.2 of the writ petition it is stated that the petitioner was appointed as Clerk on 1.6.1974 by respondent No.2, Director of Consolidation Haryana, at

Chandigarh and he worked in the same capacity there till 30.04.1989. Smt. Chand Bai widow of Shri Maru Ram, Harijan Balmiki, near Balmiki Mandir, Sirsa mother of the petitioner, and the petitioner himself with identical compassionate grounds made requests to respondent No.2, with the copy of the answering respondent No.3 on 21.3.1989, stating therein that father of the petitioner has died some time back and the petitioner is the only son having four sisters and widow mother and one sisters of the petitioner has been deserved by her husband and she has got a daughter of marriageable age, are also living at Sirsa with petitioner's family; mother of the petitioner aged about 70 years is also keeping irregular health and even the wife of the petitioner is in private service at Sirsa; It is the petitioner alone who is bearing the burden of the aforesaid family members and due to the meager salary of the petitioner, he is unable to keep all these family members at his place of posting and he is also unable to bear the fare etc. to visit them often. Under the circumstances the petitioner requested for his transfer/appointment of his own free will, choice and volition, without any request, whatsoever, to keep his lien and seniority intact, in the office of respondent No.2, Director Consolidation Haryana, Chandigarh. The petitioner did not reserve his right to lay claim of his seniority on the basis of length of service w.e.f. 1.6.1974. The photo copy of the request dated 21.3.1989 is attached herewith as Annexure R-1 and its translation in English is Annexure R-1/T. Accordingly keeping a sympathetic attitude the petitioner was transferred by respondent No.2 vide his memo SS2/14 (108) 1946 dated 17.3.1989 which is Annexure R-2 and its translation in English is Annexure R-2/T, to the office of answering respondent No.3 and consequently the answering respondent No.3 being the appointing authority of the petitioner, as per Rule 6(ii) of the Rules ibid, vide his office order dated 3.4.1989, appointed the petitioner on the terms and conditions mentioned therein, as a fresh appointee on transfer as a clerk in the pay scale of Rs.950-20-1150-EB-25-1500 on probation for two years, under rule 10(i) on a temporary post of clerk (but likely to continue for indefinite period). The Photostat copy of appointment letter is Annexure R-3 and its English translation is Annexure R-3/T. The petitioner in compliance thereof and accepting the terms and conditions joined the office of answering respondent No.3 on 1.5.1989 as a temporary clerk. Joining report of the petitioner is Annexure R-4 and its English Translation is Annexure R-4/T. Since then the petitioner is working as such in the office of answering respondent No.3 and the other contents of this para are incorrect and hence denied.”

4. Learned State counsel has canvassed arguments on similar lines as the stand taken in the written statement.

5. I am in agreement with the stand taken by the respondents. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.
6. In the overall premise, I see no irregularity of any kind committed by the Department as to warrant any judicial intervention of this Court.
7. In view of the aforesaid, no grounds are made out to interfere.
8. Dismissed.

(ARUN MONGA)
JUDGE

August 24, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No